



California Fair Political Practices Commission

December 17, 1987

Honorable Jo Anne Darcy
Councilmember, City of Santa Clarita
23726 W. Magic Mountain Parkway
Valencia, CA 91355

Re: Your Request for Advice
Our File No. I-87-296

Dear Ms. Darcy:

You have requested advice concerning your duties under the conflict-of-interest provisions of the Political Reform Act (the "Act")^{1/}. Your letter states only a general question; it does not seek advice concerning a specific decision. Therefore, we consider it to be a request for informal assistance pursuant to Regulation 18329(c) (copy enclosed).^{2/}

QUESTION

You simultaneously hold the positions of Santa Clarita City Councilmember and senior area field deputy for a Los Angeles County supervisor. What restrictions apply to your actions as a councilmember and as a county employee because you hold these two positions?

CONCLUSION

Under the Act, your position on the city council and your employment with the county do not create any conflict of interest. The Act prohibits public officials from participating in governmental decisions which affect their private

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

financial interests. You should seek advice from the city attorney or county counsel about other laws which may affect your participation in decisions on contracts between the city and the county or may otherwise affect your ability to simultaneously hold the two positions.

ANALYSIS

A principal purpose of the Political Reform Act is to prevent conflicts of interest in governmental decisionmaking. (Section 81002(c).) Accordingly, public officials are required to disclose their economic interests which may be affected in the course of their official actions. In addition, when necessary the officials are disqualified from acting to avoid conflicts of interest.

You are a public official in the County of Los Angeles and also in the City of Santa Clarita. (Section 82048.) For each position, you must file a Statement of Economic Interests in which you disclose your financial holdings, such as investments, real property and sources of income and gifts. (Sections 87200-87210 and 87300-87313.) Furthermore, in each position you are subject to the Act's disqualification requirements.

Section 87100 prohibits a public official from making, participating in, or using her official position to influence any governmental decision in which she has a financial interest. An official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or a member of her immediate family or on:

(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.

(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

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(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.

Section 87103.

Presumably, you receive a salary for your work as an employee of Los Angeles County. You may also receive a salary as a city councilmember. This does not present a problem under the Act. For purposes of the Act, salary and reimbursement for expenses or per diem from a government agency are not considered "income." (Section 82030(b)(2).) Accordingly, your government salary is not a disqualifying financial interest for purposes of Section 87103(c).

Section 87103(d) requires you to disqualify yourself from participating in decisions which would foreseeably and materially affect any business entity in which you are an officer or employee. Again, this provision does not apply to your situation. A government agency is not a "business entity" for purposes of the Act. (Section 82005.) Thus, neither your employment with the county nor your position on the city council is a disqualifying financial interest for purposes of Section 87103(d).

The Act typically prohibits public officials from participating in governmental decisions which could harm or benefit their private financial interests. Enclosed is a pamphlet entitled "A Guide to the Political Reform Act of 1974--California's Conflict of Interest Law for Public Officials," which provides general information about conflicts of interest.

In your letter, you mentioned that you will probably face decisions on contracts between the City of Santa Clarita and the County of Los Angeles. Section 1090 restricts the conduct of public officials in making government contracts. Section 1090 is not part of the Act, thus we cannot advise you about your duties under that law. You should seek advice about Section 1090 from your city attorney or county counsel. I also enclose a copy of an article published in our Bulletin regarding Attorney General's Opinions on the subject of

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incompatibility of two public offices. You may wish to review these or have the city attorney or county counsel review them.

If you have any questions concerning this letter, please contact me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel

Kathryn E. Donovan

By: Kathryn E. Donovan
Counsel, Legal Division

DMG:KED:plh
Enclosure

Nov 21 9 19 87

November 18, 1987

Fair Political Practices Commission
Attn: Chief Counsel
428 J. Street Suite 800
Sacramento, California 95814

Dear Sir:

I have just been elected councilwoman for the new City of Santa Clarita in the northern part of Los Angeles County.

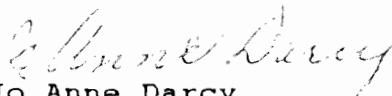
As I also hold a senior deputy position with the Board of Supervisors of that county, I am seeking your advice concerning any possible "conflict of interest" items.

Does the state have any information guidelines of do's and don'ts concerning this issue? And if so, would you please copy this information to me. The council will be dealing with annexations, city/county contracts, planning and numerous other issues so I do not wish to overstep my boundaries in either position.

The Los Angeles County Republican Party referred me to this office and I am hopeful you can help me.

Thank you for your help - it is most appreciated.

Sincerely



Jo Anne Darcy
Sr. Area Field Deputy
for Supervisor Michael D. Antonovich
Councilwoman Elect, City of Santa Clarita
23726 W. Magic Mountain Parkway
Valencia, California 91355
805-253-7230

JD:jr

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805-253-7230

JD:jr



California Fair Political Practices Commission

November 24, 1987

Jo Anne Darcy
273726 W. Magic Mountain Parkway
Valencia, CA 91355

Re: 87-296

Dear Ms. Darcy:

Your letter requesting advice under the Political Reform Act was received on November 23, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths

Diane M. Griffiths
General Counsel

by Red

DMG:plh